

WHAT IS SEXUAL HARASSMENT?

Unwelcome sexual harassment is a form of sex discrimination that violates the Maine Human Rights Act. Unwanted sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature which threatens job security, working conditions, or advancement opportunities is considered sexual harassment. (Section 3.06 I of the Commission's Employment Regulations appears on the back of this brochure.)

Following are some examples of sexual harassment.

S U S A N

Susan recently took a job in the skilled trades. The men on the job make lewd sexual remarks and refuse to cooperate with Susan on job assignments. They tell her if she's "so good" she can do the job herself. She finds obscene messages pasted to her locker, her work bench, and in her tool kit. Her supervisor suggests if she can't "take a little fun" she should transfer to a new assignment.

J U N E

June worked as a sales person at a retail establishment. Two male co-workers tell dirty jokes of a sexual nature to her

and make lewd remarks. She tried to ignore the comments by walking away. The verbal comments increased, and one co-worker began to touch her in sexually suggestive ways. June complained to her manager, who said he "would take care of it", but the harassment became worse over the next few weeks. June felt forced to leave her employment.

J O A N

Joan works in a company as a custodial worker. She has been employed only a short time when a male co-worker begins making obscene sexual remarks to her. She tells him to leave her alone, and he reacts by forcing her into a locker room to cooperate with his sexual demands. She complains to her supervisor, but her supervisor tells her that he can't do anything and that she should "work it out." The next day Joan is subjected to the same verbal and physical threats.

S A M

Sam works for a firm in Sales and has to travel to other cities with his boss. The boss wants to share a hotel room "to save the company some money." When Sam refuses she tells him to stop "acting like a baby" and "smarten up". She later gives him a poor performance evaluation, and he is terminated shortly afterwards.

WHO ARE THE VICTIMS?

Although the majority of victims are women, the victim, as well as the harasser, may be a woman or a man. The victim does not have to be of the opposite sex.

WHAT SHOULD I DO IF I AM BEING SEXUALLY HARASSED?

First, be sure the harasser knows you do not welcome these advances. Tell the harasser to stop.

If the harassment continues, write down each offensive suggestion, action or remark. Be as specific as you can, including time, date and place of incident. Note the name(s) of any co-worker(s) who might have witnessed the incident. Talk to your co-workers and tell them what is happening to you.

Inform your supervisor (or your harasser's supervisor) of the harassment. If you are in a Union, talk to your Union steward and use your grievance procedure. Your Union has the duty to represent you on issues of sexual harassment, or the Union itself may become liable. Use any employer complaint mechanism or grievance system available.

Contact the Maine Human Rights Commission.

HOW DO I FILE A COMPLAINT?

You may file a complaint with the Maine Human Rights Commission within 6 months of the date of discrimination. Call or visit the Commission's office and a staff person will assist you. The Commission's office is open 8:00 a.m. – 5:00 p.m., Monday through Friday.

CAN MY EMPLOYER RETALIATE AGAINST ME FOR FILING A COMPLAINT OF SEXUAL HARASSMENT?

It is unlawful under the Maine Human Rights Act for an employer to retaliate against you because you filed a charge of discrimination or because you aided in an investigation.

SEXUAL HARASSMENT REGULATIONS OF THE MAINE HUMAN RIGHTS COMMISSION

1. Harassment on the basis of sex is a violation of Section 4572 of the Maine Human Rights Act. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- c) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

2. An employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment. When the supervisor's harassment culminates in a tangible employment action, such as, but not limited to, discharge, demotion, or undesirable reassignment, liability attaches to the employer regardless of whether the employer knew or should have known of the harassment, and regardless of whether the specific acts complained of were authorized or even forbidden by the employer. When the supervisor's harassment does not culminate in a tangible employment action, the employer may raise an affirmative defense to liability or damages by proving by a preponderance of the evidence:

- a) that the employer exercised reasonable care to prevent and correct promptly any sexually harassing behavior, and
- b) that the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

3. With respect to persons other than those mentioned in paragraph 2 of this section, an employer is responsible for acts of sexual harassment in the workplace where the employer, or its agents or supervisory employees, knows or should have known of the conduct. An employer may rebut apparent liability for such acts by showing that it took immediate and appropriate corrective action.

SEXUAL HARASSMENT ON THE JOB

IS

SEX DISCRIMINATION

AND

IT IS ILLEGAL

- ☒ UNWELCOME SEXUAL ADVANCES
- ☒ SUGGESTIVE OR LEWD REMARKS
- ☒ UNWANTED HUGS, TOUCHES, KISSES
- ☒ REQUESTS FOR SEXUAL FAVORS
- ☒ RETALIATION FOR COMPLAINING ABOUT SEXUAL HARASSMENT

MAINE=
HUMAN
RIGHTS
COMMISSION
51 STATE HOUSE STATION
AUGUSTA, ME 04333-0051
PH: (207) 624-6050
TTY: (207) 624-6064

www.state.me.us/mhrc